

**PUBLIC NOTICE**

**# M2004-06**



**TN DEPT. OF ENVIRONMENT & CONSERVATION  
DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION  
2700 MIDDLEBROOK PIKE SUITE 220  
KNOXVILLE TN 37921**

**ISSUE DATE 10/27/2004**

**EXPIRATION DATE 11/27/2004**

**TO WHOM IT MAY CONCERN:** The applications described herein have been submitted for Aquatic Resource Alteration Permits pursuant to *The Tennessee Water Quality Control Act of 1977*, T.C.A. §69-3-108.

The purpose of this notice is to advise all concerned of the proposals for which permits are sought and to solicit comments and information necessary to evaluate the probable impact of the activities upon the respective water resources. The decision whether to issue or deny will in part be based upon that evaluation. All factors, which may be relevant to the proposals, will be considered.

Persons wishing to comment on or object to the issuance of a proposed permit are invited to submit comments in writing to the address listed above. Written statements received in this office on or before the date of expiration of the comment period, **November 27, 2004 will become** part of the record and will be considered in the determination. The public notice number, applicant's name, permit number and coordinator should be referenced.

Interested persons may also request in writing that the director of the Division hold a public hearing on any application. The request must be filed within the comment period and must indicate the interest of the person requesting it, and the reasons that the hearing is warranted. When there is sufficient public interest, the director shall hold a hearing in accordance with Rule 1200-4-1-.05(3)(G).

After consideration of comments submitted during the public comment period, the hearing record if any, and the requirements of federal and state law, the director of the Division will make determinations regarding the final action on each permit. Permit applications, supporting documentation and related comments are available for review and/or copying.

The public notice includes tentative determinations regarding the issuance, modification, denial or termination of permits for the activities proposed herein.

**DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION**

**WATER QUALITY PERMIT  
AQUATIC RESOURCE ALTERATION**

**PERMIT NUMBER #M2004-06**

**Permit Application Number:** ARAP-#M2004-06

**Applicant:** Mr. Stanley G. Bass, Vice-President East Region, Midsouth Division  
Nolichuckey Sand Company, Inc.  
known as Greystone Sand & Gravel  
1980 Greystone Road  
Greeneville, TN 37743

**Location:** The proposed project area is located in Greene County near Greeneville, Tennessee and is associated with Nolichuckey Sand Company, Incorporated known as Greystone Sand & Gravel. This industrial facility operates as a construction sand mine and processing facility. The project is located at 36°05'37" latitude and 82°44'36" longitude on the Greystone, Tennessee USGS Quadrangle in Greene County.

**Background and Project Description:** The Division entered into Agreed Order Number 98-0466 Docket Numbers 04.30-006015A and 04.30-009778A with Nolichuckey Sand Company Incorporated on April 23, 2002. This permit renewal details items that were not completed during the previous permit period. The Division continues to enforce the conditions of the Agreed Order for each of the stream segments. All plans related to the development of natural resources at the site must strictly comply with the order, such as encroachment upon the stream buffer zone. Dry Creek frequently experiences severe flooding that changes the geomorphic channel configuration and alignment. These conditions must be reported to the Division within five days of their occurrence. An inspection of the stream system within the Vulcan property boundary downstream to Camp Creek must be conducted quarterly and any condition that varies from the minimum standards established by this permit, the NPDES permit, and/or the Agreed Order must be reported to the Mining Section quarterly.

A copy of the Agreed Order is attached. This legal agreement provided the vehicle to accomplish the following elements:

- Restore a flow channel for Dry Creek within the stream reach surrounded by Nolichuckey Sand Company, Inc.'s mine and processing facility
- Establish a buffer zone along the stream channel (two equipment widths or 25 feet at top of berm)
- Cease any discharge of mine and process water to Dry Creek
- Establish a time-line for project task completion

The items completed during the previous permit cycle will be listed in this permit as complete. Nolichuckey Sand Company (NSC) delineated the Dry Creek project area in the ARAP Construction Control Plan and included the following:

- A. Enlarging 1300 feet of a southeast wet weather conveyance ditch into the sump of Dry Creek. NSC completed this task.
- B. Installation of an impervious berm at "the Pond" outlet that would prevent discharge of mine wastewater and storm water into Dry Creek. NSC completed this task.
- C. Creating a high energy conveyance corridor from the Notch to the Pond by excavating a new stream channel.
- D. NSC diverted Dry Creek into a new channel that provided additional surface hydrology to Conservation Easement Zone.

During the permit cycle excessive rain events prevented NSC's compliance with the time line as established in ARAP permit M2002-04. These permit conditions are enforceable conditions that must be accomplished and maintained. Recent severe flooding conditions caused stream channel alignment issues and failure of an impervious berm at "The Pond" that separated Dry Creek from mine area waters. The Dry Creek flow channel must be maintained to prevent the sediment-laden water from entering the stream and causing additional downstream sediment deposition.

Nolichuckey Sand Company, Incorporated has operated the construction sand mine and processing facility since April 2002. During this permit cycle, Vulcan Materials Company agreed to implement elements of the order within an Aquatic Resource Alteration Permit that replaced Agreed Order No.98-0466. Vulcan's plan complies with and exceeds the elements of the Agreed Order with a comparable time line. The proposed project includes the restoration and re-construction of Dry Creek. The plan divides Dry Creek into twenty-one stations that are 500 feet apart.

As proposed and properly implemented, Vulcan's plan will comply with the Tennessee Water Quality Control Act of 1977 including 1994 amendments and associated regulations. The project description for details and draft permit conditions is enclosed.

**Tentative Determination:** The Division has tentatively proposed to issue a conditional Individual Aquatic Resource Alteration Permit.

**Permit Coordinator:** Dave Turner

Mining Section  
Division of Water Pollution Control  
2700 Middlebrook Pike  
Suite 220  
Knoxville, TN 37921  
dave.turner@state.tn.us

#### Aquatic Resource Alteration Permit Conditions

1. **The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.**
2. All construction activities associated with stream reconstruction must include erosion and sediment control during construction. Material excavated and placed in the flood zone must be stabilized with appropriate erosion control methods.
3. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.

This does not obviate requirements of other federal, state or local laws. In particular, work shall not commence until the applicant has received the federal §404 permit from the U. S. Army, Corps of Engineers.

The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty (30) days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et seq. Questions concerning this certification should be addressed to Mr. Dave Turner at 423-594-5541.

Vulcan Nolichucky Sand Company, Inc.

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Paul E. Davis, Director  
Division of Water Pollution Control

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Date